

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF ADOPTION,
Rules I through V (ARM 2.21.6612,	)	AMENDMENT, AND AMENDMENT
2.21.6613, 2.21.6614, 2.21.6616, and	)	AND TRANSFER
2.21.6617), the amendment of ARM	)	
2.21.6606, 2.21.6608, 2.21.6622, and	)	
the amendment and transfer of ARM	)	
2.21.6611 (2.21.6615) pertaining to	)	
employee records management	)	

TO: All Concerned Persons

1. On February 11, 2010, the department published MAR Notice No. 2-21-423 regarding a public hearing on the proposed adoption, amendment, and amendment and transfer of the above-stated rules at page 256 of the 2010 Montana Administrative Register, Issue No. 3.

2. On March 11, 2010, the department held a public hearing on the proposed adoption, amendment, and amendment and transfer.

3. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT #1: The department received a comment suggesting the language in New Rule I(1)(a) be revised to differentiate between applicant and employee records. The commentor also expressed concern about employee references being considered employee personnel records.

RESPONSE #1: The department will not address applicant records in this rule. These rules pertain only to employee personnel records. Applicant records, including preemployment information, do not become employee personnel records until an applicant is hired and becomes an employee. The department will not remove references from this rule. The rule pertains only to references for hired employees. All preemployment information for hired employees is an employee record.

COMMENT #2: The department received a comment requesting the language in New Rule V(1) be revised to state that employee records may also be retained within the agency for the seven additional years.

RESPONSE #2: The department agrees and is making changes to (1).

COMMENT #3: The department received a comment suggesting New Rule IV(1) and ARM 2.21.6611 (2.21.6615(10)) be revised to specify the authorized

users.

RESPONSE #3: The department will not change these rules. Agency management may specify the authorized users in the agency policy.

4. The department has adopted New Rule I (ARM 2.21.6612), New Rule II (ARM 2.21.6613), New Rule III (ARM 2.21.6614), and New Rule IV (ARM 2.21.6616) as proposed.

5. The department has amended ARM 2.21.6606, 2.21.6608, and 2.21.6622 as proposed.

6. The department and amended and transferred ARM 2.21.6611 to 2.21.6615 as proposed.

7. The department has adopted New Rule V (ARM 2.21.6617) as proposed, but with the following changes, stricken matter interlined, new matter underlined:

NEW RULE V (2.21.6617) EMPLOYEE PERSONNEL RECORDS  
RETENTION (1) The Montana Secretary of State's Records and Information Management Division maintains a records retention schedule for payroll and personnel records. Most employee personnel records must be kept in the employer's office for three years after an employee terminates employment, ~~and~~, The records must then be transferred to the state records center or retained within the agency for seven additional years. Some personnel records have different retention requirements, which are listed in the schedule.

(2) remains as proposed.

AUTH: 2-18-102, MCA

IMP: 2-18-102, MCA

By: /s/ Janet R. Kelly  
Janet R. Kelly, Director  
Department of Administration

By: /s/ Michael P. Manion  
Michael P. Manion, Rule Reviewer  
Department of Administration

Certified to the Secretary of State April 19, 2010.